

APPEAL NO. 023144
FILED JANUARY 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 18, 2002. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 10th and 11th quarters. The appellant (carrier) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criteria in dispute for the 10th and 11th quarters are whether the claimant made a good faith effort to obtain employment commensurate with his ability to work and whether he earned less than 80% of his average weekly wage as a direct result of the impairment from his compensable injury during the relevant qualifying periods. The hearing officer found that during the relevant qualifying periods the claimant made a good faith effort to obtain employment commensurate with his ability to work and that his unemployment was a direct result of his impairment. Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The carrier has not shown that the hearing officer committed reversible error in excluding the testimony of one of the two vocational case managers the carrier called as witnesses. See Texas Workers' Compensation Commission Appeal No. 91003, decided August 14, 1991, which noted that to obtain reversal of a decision based on the admission or exclusion of evidence, it must be shown that the ruling was in error and that the error was reasonably calculated to cause and probably did cause the rendition of an improper decision. The carrier did not timely exchange the identity of the excluded witness with the claimant. See Rule 142.13(c).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Roy L. Warren
Appeals Judge